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## TITLE 40--PROTECTION OF ENVIRONMENT

### CHAPTER I--ENVIRONMENTAL PROTECTION AGENCY (CONTINUED)

#### PART 93\_DETERMINING CONFORMITY OF FEDERAL ACTIONS TO STATE OR FEDERAL IMPLEMENTATION PLANS--Table of Contents

Subpart A\_Conformity to State or Federal Implementation Plans of  
Sec. 93.126 Exempt projects.

Notwithstanding the other requirements of this subpart, highway and transit projects of the types listed in Table 2 of this section are exempt from the requirement to determine conformity. Such projects may proceed toward implementation even in the absence of a conforming transportation plan and TIP. A particular action of the type listed in Table 2 of this section is not exempt if the MPO in consultation with other agencies (see Sec. 93.105(c)(1)(iii)), the EPA, and the FHWA (in the case of a highway project) or the FTA (in the case of a transit project) concur that it has potentially adverse emissions impacts for any reason. States and MPOs must ensure that exempt projects do not interfere with TCM implementation. Table 2 follows:

#### Table 2--Exempt Projects

##### Safety

Railroad/highway crossing.  
Hazard elimination program.  
Safer non-Federal-aid system roads.  
Shoulder improvements.  
Increasing sight distance.  
Safety improvement program.  
Traffic control devices and operating assistance other than signalization projects.  
Railroad/highway crossing warning devices.  
Guardrails, median barriers, crash cushions.  
Pavement resurfacing and/or rehabilitation.  
Pavement marking demonstration.  
Emergency relief (23 U.S.C. 125).  
Fencing.

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Skid treatments.  
Safety roadside rest areas.  
Adding medians.  
Truck climbing lanes outside the urbanized area.  
Lighting improvements.

Widening narrow pavements or reconstructing bridges (no additional travel lanes).  
Emergency truck pullovers.

#### Mass Transit

Operating assistance to transit agencies.  
Purchase of support vehicles.  
Rehabilitation of transit vehicles \1\  
Purchase of office, shop, and operating equipment for existing facilities.  
Purchase of operating equipment for vehicles (e.g., radios, fareboxes, lifts, etc.).  
Construction or renovation of power, signal, and communications systems.  
Construction of small passenger shelters and information kiosks.  
Reconstruction or renovation of transit buildings and structures (e.g., rail or bus buildings, storage and maintenance facilities, stations, terminals, and ancillary structures).  
Rehabilitation or reconstruction of track structures, track, and trackbed in existing rights-of-way.  
Purchase of new buses and rail cars to replace existing vehicles or for minor expansions of the fleet \1\  
Construction of new bus or rail storage/maintenance facilities categorically excluded in 23 CFR part 771.

#### Air Quality

Continuation of ride-sharing and van-pooling promotion activities at current levels.  
Bicycle and pedestrian facilities.

#### Other

Specific activities which do not involve or lead directly to construction, such as:  
    Planning and technical studies.  
    Grants for training and research programs.  
    Planning activities conducted pursuant to titles 23 and 49 U.S.C.  
    Federal-aid systems revisions.  
Engineering to assess social, economic, and environmental effects of the proposed action or alternatives to that action.  
Noise attenuation.  
Emergency or hardship advance land acquisitions (23 CFR 712.204(d)).  
Acquisition of scenic easements.  
Plantings, landscaping, etc.  
Sign removal.  
Directional and informational signs.  
Transportation enhancement activities (except rehabilitation and operation of historic transportation buildings, structures, or facilities).  
Repair of damage caused by natural disasters, civil unrest, or terrorist acts, except projects involving substantial functional, locational or capacity changes.  
    Note: \1\In PM10 nonattainment or maintenance areas, such projects are exempt only if they are in compliance with control measures in the applicable implementation plan.

Effective Date Note: At 69 FR 44081, July 1, 2004, Sec. 93.126 was amended under the heading ``Other'' by revising the entry for ``Emergency or hardship advance land acquisitions (23 CFR 712.204(d))'' to read ``Emergency or hardship advance land acquisitions (23 CFR 710.503).'', effective Aug. 2, 2004.